



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RINAT HAFIZOV,

Plaintiff,

- against -

BDO USA, LLP, et al,

Defendants. :
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22-CV-8853 (JPC) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves or otherwise addresses several letter motions filed by the parties.

1. **Mr. Sweeney's complaints against Ms. Bernier (Dkt. 105):** Plaintiff's request to compel is GRANTED to the extent that BDO must produce non-privileged documents comprising or addressing any complaint by Mr. Sweeney of retaliation against him by Ms. Bernier.

2. **Scope of discovery re similarly situated employees (Dkt. 105):** Plaintiff is correct that the Court identified six categories of material. The two that appear to not have been explicitly referenced by BDO in response (at least as described by Plaintiff) are documents concerning performance issues and discipline. It is not clear to the Court that BDO withheld documents falling into these categories. In any event, Plaintiff's request is GRANTED to the extent that documents responsive to those categories must be produced regardless of whether the employee at issue was terminated.

3. **Additional comparators (Dkt. 105):** Plaintiff's request to compel Defendant to produce documents for the eight additional alleged comparators -- i.e., those in SALT Northeast (outside of SALT New York) -- is DENIED. The alleged comparators are not

sufficiently similarly situated, and their relationship to Ms. Bernier and Mr. Dymont is attenuated.

4. Subpoena of Mr. Sweeney (Dkt. 106): BDO's request to quash the deposition subpoena served on Mr. Sweeney is DENIED. Mr. Sweeney, unsurprisingly, has not objected to the subpoena. BDO, however, identifies a number of reasons why Mr. Sweeney's experience with Ms. Bernier and BDO arguably is of little or no relevance to Plaintiff's instant claim. Those reasons ultimately may lead to exclusion of Sweeney-related facts from evidence. For discovery purposes, however, there are sufficient grounds, based on the allegations of the complaint, that make the deposition of Mr. Sweeney proportional to the needs of the case.

5. The 25 pages of documents designated confidential by Plaintiff (Dkt. 108): BDO's request for in camera review is GRANTED. By September 26, 2023, BDO shall make the documents available to the Court by email.

The Clerk of Court is respectfully requested to terminate the letter motions at Dkts. 105, 106, and 108.

SO ORDERED.



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: September 19, 2023
New York, New York

Copies transmitted this date to all counsel of record.